DEPARTMENT OF MENTAL HEALTH
NOTICE OF PROPOSAL TO ADOPT PERMANENT REGULATIONS

NOTICE IS HEREBY GIVEN that the Department of Mental Health proposes to adopt the regulatory action described below after considering all comments, objections, or recommendations regarding the proposed regulatory action.

AUTHORITY AND REFERENCE:

Authority: Sections 14680, Welfare and Institutions Code.

Reference: Sections 1340 et seq., Health and Safety Code; Sections 5520, 5705, 5718, 5720, 5724, 5775, 5776, 5777, 5778, 5779, 5780, 10950-10965, 11400, 14000, 14005, 14007.5, 14011, 14021.3,14021.4, 14021.5, 14104.3, 14105.98, 14132, 14142, 14145, 14640, 14680, 14681, 14682, 14683, 14684, 14685, and 16115, Welfare and Institutions Code; and Title 42, Sections 1396d(a), 1396d(r), and 1396r-4, United States Code.

PROPOSED REGULATORY ACTION:

The Department of Mental Health proposes to take regulatory action to make permanent the emergency regulatory action which became effective on November 1, 1997. The emergency action, the Medi-Cal Specialty Mental Health Services regulations, implemented the second phase of Mental Health Managed Care as provided in Part 2.5 (commencing with Section 5775) of Division 5 of the Welfare and Institutions Code.

HISTORY:

The emergency regulations identified above are in effect until July 1, 1999, or until the permanent regulations are adopted, whichever comes first (Chapter 324, Statutes of 1998). This proposed regulatory action to make the emergency regulations permanent was originally published in the California Regulatory Notice Register on November 14, 1997 and a hearing held on December 30, 1997. The comment period was extended 15 days beyond the original 45 days to January 15, 1998. It became apparent to the Department that the rulemaking process for this regulatory action would not be completed within one year of the publication date in accordance with Government Code 11346.4 (b). Therefore, the Department is re-issuing this Notice of Proposal to Adopt Permanent Regulations.

COMMENT PERIOD:

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Mental Health. All comments submitted and received during the public comment period for these regulations which ended on

January 15, 1998 will be considered by the Department as current public comments on these regulations and need not be resubmitted during the new public comment period. The new public comment period closes at 5:00 p.m. on December 21, 1998. The Department will only consider comments received at the following address by that time. Please submit comments to David Nishimura of the Office of Regulations at the address listed below:

Office of Regulations
Attn: David Nishimura
Department of Mental Health
1600 Ninth Street, Room 150
Sacramento, CA 95814

CONTACT PERSON:

Copies of the initial statement of reasons and the text of the proposed regulations are enclosed and additional copies are available upon request from David Nishimura of the Office of Regulations at the address listed above.

Inquiries concerning the substance of the proposed regulatory action by the Department of Mental Health should be made to Teri Barthels of Managed Care Implementation at (916) 654-5691.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Mental Health will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of this date, included in the rulemaking file are the initial statement of reasons, all information upon which the proposed regulations are based, and the text of the proposed regulations. Also available for review are the public comments received during the public comment period for these regulations which ended on January 15, 1998. These public comments will be considered by the Department as current public comments on these regulations and need not be resubmitted during the new public comment period.

AVAILABILITY OF CHANGED OR MODIFIED TEXT:

After considering all timely and relevant comments received, the Department of Mental Health may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the Department of Mental Health adopts the regulations. Requests for copies of

any modified regulations should be sent to the attention of David Nishimura, Office of Regulations, at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST

Assembly Bill (AB) 757 (Chapter 633, Statutes of 1994) enacted laws dealing with the provision of specialty mental health services to beneficiaries of California's Medicaid (Medi-Cal) program. The statute provides for the phased implementation of managed mental health care for Medi-Cal beneficiaries through fee-for service or capitated rate contracts with mental health plans (MHPs). It designates the Department of Mental Health (DMH), to the extent permitted by federal law, as the state agency responsible for developing and implementing MHPs for Medi-Cal beneficiaries.

The design of managed care for California's Medi-Cal mental health program includes three steps, to be phased in over several years. Medi-Cal psychiatric inpatient hospital services consolidation was the first phase, as authorized by statute and based on the authority granted by a federal freedom of choice waiver under Section 1915 (b) of the Social Security Act, approved effective March 17, 1995. This waiver was recently renewed and modified on September 5, 1997, to include the second phase, "Medi-Cal specialty mental health services consolidation," with a proposed implementation date of November 1, 1997. The final step will be capitation, to be phased in at a later date. For the first phase, the Department adopted regulations in Chapter 10, in Title 9, Division 1, California Code of Regulations (CCR), entitled "Medi-Cal Psychiatric Inpatient Hospital Services," to implement, interpret and make specific the requirements brought about by the changes in the law cited above.

The regulations included in this notice of proposal to adopt permanent regulations adopt a new Chapter 11, in Title 9, Division 1, CCR, entitled "Medi-Cal Specialty Mental Health Services," which include requirements regarding psychiatric inpatient hospital services consistent with the regulations in Chapter 10, and new standards for additional services including rehabilitative services, targeted case management, psychiatrist services, psychologist services, EPSDT supplemental specialty mental health services, and psychiatric nursing facility services. This new Chapter implements, interprets and makes specific the requirements brought about by the changes in the law cited above for the second phase of the Medi-Cal managed mental health care program.

PLAIN ENGLISH POLICY STATEMENT OVERVIEW AND NONCONTROLLING PLAIN ENGLISH SUMMARY:

Due to the complexity of the issues and processes to be dealt with in this regulation package, it would not be feasible to draft these regulations in accordance with the prevailing plain English

standard. Therefore, along with an explanation of the specific purpose of each regulation provided in the statement of reasons, a noncontrolling plain English summary follows:

Section 1810.100. This regulation describes the scope of the Medi-Cal Specialty Mental Health Services Consolidation program.

Section 1810.110. This regulation explains the laws, existing regulations, and other guidelines that affect the program being implemented as well as certain basic contracting requirements and the authority for the Department to provide flexibility from certain provisions of the regulations.

Sections 1810.201 through 1810.254 define words that are used in these regulations to make sure their meaning is clear.

Section 1810.201. This regulation defines a type of mental health service.

Section 1810.202. This regulation defines a type of mental health service.

Section 1810.203. This regulation defines a type of mental health service.

Section 1810.204. This regulation defines the activities involved in deciding what a beneficiary's mental health needs are.

Section 1810.205. This regulation defines Medi-Cal beneficiaries, who are the persons who will get services through this program.

Section 1810.205.1. This regulation defines areas outside California that are covered by this program.

Section 1810.206. This regulation defines an activity that may be a part of mental health service that is given to someone other than a beneficiary to help in the treatment of the beneficiary.

Section 1810.207. This regulation defines a type of hospital.

Section 1810.208. This regulation defines a type of mental health service for beneficiaries in a mental health crisis.

Section 1810.209. This regulation defines a type of mental health service for beneficiaries in a mental health crisis.

Section 1810.210. This regulation defines a type of mental health service for beneficiaries with a mental health crisis.

Section 1810.211. This regulation defines a skill that MHPs need for this program.

Section 1810.212. This regulation defines a type of mental health service.

Section 1810.213. This regulation defines a type of mental health service.

Section 1810.214. This regulation defines the word "Department" as used in these regulations refers to the California Department of Mental Health.

Section 1810.214.1. This regulation defines a type of hospital.

Section 1810.215. This regulation defines a type of mental health service.

Section 1810.216. This regulation defines what an emergency is for this program.

Section 1810.216.1. This regulation defines one of the ways to complain about problems that come up in this program.

Section 1810.216.2. This regulation defines one of the sources of the money MHPs get for this program.

Section 1810.217. This regulation defines a type of hospital.

Section 1810.218. This regulation defines one of the ways providers get paid in this program.

Section 1810.218.1. This regulation defines one of the ways to complain about problems that come up in this program.

Section 1810.218.2. This regulation defines a type of provider.

Section 1810.219. This regulation defines a type of provider.

Section 1810.220. This regulation defines a type of hospital service.

Section 1810.221. This regulation defines an MHP's plan for how services will be given to beneficiary through this program.

Section 1810.222. This regulation defines a type of provider.

Section 1810.222.1. This regulation defines type of provider.

Section 1810.223. This regulation defines a type of provider.

Section 1810.224. This regulation defines a type of managed care plan.

Section 1810.225. This regulation defines a type of mental health service.

Section 1810.225.1. This regulation defines a type of written agreement between MHPs and Medi-Cal managed care plans.

Section 1810.226. This regulation defines what an MHP is.

Section 1810.227. This regulation defines a type of mental health service.

Section 1810.228. This regulation defines how to tell which MHP covers any individual beneficiary in this program.

Section 1810.229. This regulation defines the way in which the MHP tells a provider that the MHP will pay for a mental health service.

Section 1810.230. This regulation defines a type of hospital.

Section 1810.231. This regulation defines type of provider.

Section 1810.232. This regulation defines a part of a mental health service that involves making sure the service will be what the beneficiary needs.

Section 1810.233. This regulation defines the part of the MHP's organization that will be responsible for telling providers whether the MHP will pay for a mental health service.

Section 1810.235. This regulation defines the types of persons and organizations that may be providers in this program.

Section 1810.236. This regulation defines a type of provider.

Section 1810.237. This regulation defines a type of mental health service.

Section 1810.237.1. This regulation defines a type of mental health service.

Section 1810.238. This regulation defines a type of mental health service.

Section 1810.239. This regulation defines a type of mental health service.

Section 1810.240. This regulation defines a type of mental health service.

Section 1810.241. This regulation defines a type of mental health service.

Section 1810.242. This regulation defines how to tell the day on which someone received something.

Section 1810.243. This regulation defines an activity that may be a part of mental health service.

Section 1810.243.1. This regulation defines a type of insurance.

Section 1810.244. This regulation defines a type of hospital service.

Section 1810.245. This regulation defines the kinds of activities that are included in a mental health service.

Section 1810.246.1. This regulation defines a person in a beneficiary's life who may be involved in the beneficiary's mental health treatment.

Section 1810.246.2. This regulation defines a type of county.

Section 1810.246.3. This regulation defines an insurance program for MHPs in small counties.

Section 1810.247. This regulation defines all the mental health services that are included when these regulations talk about specialty mental health services.

Section 1810.248. This regulation defines how to tell the day on which someone sent something.

Section 1810.249. This regulation defines a type of mental health service.

Section 1810.250. This regulation defines an activity that may be a part of mental health service.

Section 1810.251. This regulation defines a way in which someone other than the MHP may be required to pay for a mental health service.

Section 1810.252. This regulation defines a type of hospital.

Section 1810.253. This regulation defines a mental condition that is not an emergency, but which need treatment quickly.

Section 1810.253.1. This regulation defines the type of fee providers usually charge their non-Medi-Cal patients.

Section 1810.254. This regulation defines a type of provider.

Section 1810.305. This regulation explains the requirements for an organization to become an MHP.

Section 1810.310. This regulation explains what must be included in an implementation plan and approved by the Department before an MHP may begin delivering services to beneficiaries under this program.

Section 1810.315. This regulation explains some of the conditions of the contract between the Department and MHPs for services under this program.

Section 1810.320. This regulation explains the conditions and process for renewal of contracts between the Department and MHPs.

Section 1810.325. This regulation explains the conditions and process for termination of contracts between the Department and MHPs.

Section 1810.330. This regulation explains the method for paying state funds to MHPs once a year.

Section 1810.335. This regulation explains how the amount of state funds paid to an MHP for the year may be changed when certain things happen.

Section 1810.341. This regulation explains how the Small County Reserve works. The Small County Reserve may be used by MHPs in small counties when the services they provide to beneficiaries cost more than the MHPs receive in state and federal funds through the normal payment processes.

Section 1810.345. This regulation explains which mental health services the MHP has to cover under this program.

Section 1810.350. This regulation explains the different types of services that are included in psychiatric inpatient hospital services.

Section 1810.355. This regulation explains which services are not covered by MHPs under this program.

Section 1810.360. This regulation explains that the Department and MHP must tell beneficiaries about this program, including how to get services from the MHP and how to complain if there is a problem.

Section 1810.365. This regulation explains that MHPs and providers are not allowed to charge beneficiaries for services except when Medi-Cal rules require the beneficiary or someone else to pay.

Section 1810.370. This regulation explains the things that must be covered in a written agreement between MHPs and Medi-Cal managed care plans.

Section 1810.375. This regulation explains what reports MHPs must provide to the Department and how often.

Section 1810.380. This regulation explains how the Department will make sure the MHPs follow these regulations and their contract with the Department.

Section 1810.385. This regulation explains that the Department may fine MHPs specific dollar amounts if the MHP violates laws, regulations, or contact requirements for this program.

Section 1810.405. This regulation explains the standards the MHP must follow to make sure services are available when beneficiaries need them.

Section 1810.410. This regulation explains that MHPs must develop a plan for improving the services provided to beneficiaries from many cultures and what the MHPs must do if a beneficiary needs to speak a language other than English to get the services the beneficiary needs.

Section 1810.415. This regulation explains how MHPs must work together with a beneficiary's other providers to help make sure the beneficiary gets the right care.

Section 1810.425. This regulation explains the standards MHPs will make sure hospitals met before the hospital may provide services through the MHP.

Section 1810.430. This regulation explains what needs to be included in contracts between MHPs and hospitals.

Section 1810.435. This regulation explains the standards MHPs will make sure providers other than hospitals met before the hospital may provide services through the MHP.

Section 1810.436. This regulation explains what needs to be included in contracts between MHPs and providers other than hospitals.

Section 1810.438. This regulations explains that MHPs must get approval from the Department when the contract between a provider and the MHP includes services that might be delivered by another provider.

Section 1810.440. This regulation explains what MHPs need to include in their Quality Management Program to make sure that the quality of care for beneficiaries is looked at regularly and actions are taken to improve care when necessary.

Section 1820.100. This regulation defines words used in describing the hospital rate setting process to make sure their meaning is clearly understood.

Section 1820.110. This regulation explains the requirements and procedures for rate setting for Fee-for-Service/Medi-Cal hospitals that contract with MHPs.

Section 1820.115. This regulation explains the requirements and procedures for rate setting for Fee-for-Service/Medi-Cal without a contract with any MHP.

Section 1820.120. This regulation explains the requirements and procedures for rate setting for Short-Doyle/Medi-Cal hospitals.

Section 1820.200. This regulation defines words used in describing how psychiatric inpatient hospital services are delivered to make sure their meaning is clearly understood.

Section 1820.205. This regulation explains the criteria the MHP must use to decide whether to pay for a psychiatric inpatient hospital service. It includes the specific mental illnesses that are covered and ways to tell whether the beneficiary's mental health problems are serious enough that the beneficiary can only be treated in the hospital.

Section 1820.210. This regulation explains hospital utilization control requirements that apply to the program.

Section 1820.215. This regulation explains in general how the MHP must handle requests from hospitals to be paid for psychiatric inpatient hospital services, including how the MHPs must handle request that come in late.

Section 1820.220. This regulation explains how the MHP and the hospital must handle requests from hospitals to be paid for psychiatric inpatient hospital services when the process is handled by the MHP's Point of Authorization.

Section 1820.225. This regulation explains how the MHP and the hospital must handle requests from hospitals to be paid for psychiatric inpatient hospital services when the process is handled by the MHP's Point of Authorization and the service is provided in an emergency. The

regulation explains that an emergency exists when the beneficiary is a danger to self or others or when the beneficiary is immediately unable to get or use food, shelter, or clothes.

Section 1820.230. This regulation explains how the MHP must handle requests from hospitals to be paid for psychiatric inpatient hospital services when the process is handled by the hospital's Utilization Review Committee.

Section 1830.100. This regulation explains that the regulations that follow do not apply to psychiatric inpatient hospital services unless the regulation specifically says it does.

Section 1830.105. This regulation explains the requirements and procedures for rate setting for providers.

Section 1830.115. This regulation explains the rate for psychiatric nursing facility services that must be paid by the MHP.

Section 1830.205. This regulation explains the criteria the MHP must use to decide whether the MHP covers a mental health service other than services given while a beneficiary is in the hospital. The regulation includes the specific mental illnesses that are covered and ways to tell whether the beneficiary's mental health problems are serious enough that services need to be provided by a mental health specialist and whether service covered by the MHP will really help the beneficiary.

Section 1830.210. This regulation explains criteria required by general Medi-Cal rules that the MHP must use to decide whether the MHP covers a mental health service for a beneficiary under 21 years of age if the criteria in Section 1830.205 is not met. This regulation means that the MHP may sometimes cover a service for a child even if the MHP would not be required to give the service to an adult.

Section 1830.215. This regulation explains in general how the MHP may handle requests from providers to be paid for mental health services. The regulation explains that MHPs may require providers to get approval for a service before the service is provided, except in an emergency.

Section 1830.220. This regulation explains how an MHP must handle requests from providers that do not have a contract with the MHP to be paid for mental health services. This regulation explains that most of the time the MHP does not have to approve requests from these providers, but also makes it clear that the MHP must see that foster children and other beneficiaries who are the MHP's responsibility receive get services, even if they are placed in another county.

Section 1830.225. This regulation explains that the MHP must give beneficiaries a choice of at least two persons from whom the beneficiary may receive therapy, medication support, or

case management services, if the beneficiary asks for a choice and unless the MHP can show that offering a choice is impossible.

Section 1830.230. This regulation explains the medical necessity and authorization criteria for psychiatric inpatient hospital professional services.

Section 1830.245. This regulation explains the medical necessity and authorization criteria for psychiatric health facility services.

Section 1830.250. This regulation explains how the MHP must handle requests from nursing facilities for payment of psychiatric nursing facility services.

Section 1840.100. This regulation defines words used to describe how the MHPs qualify for and claim the federal money, called federal financial participation (FFP), available for this program to make sure the meaning of the words is clearly understood.

Section 1840.105. This regulation explains the general rules for deciding the amount of FFP that the MHP may receive for a mental health service provided under this program.

Section 1840.110. This regulation explains the timelines the MHP, the Department and the State Department of Health Services must follow to claim FFP.

Section 1840.115. This regulation explains how the MHP will claim FFP for services that are covered by a contract between the MHP and a provider when the contract includes services that might be delivered by another provider.

Section 1840.205. This regulation explains the claiming system to be used by the MHP for both Short-Doyle/Medi-Cal and Fee-for-Service/Medi-Cal hospitals to claim FFP.

Section 1840.210. This regulation explains that FFP cannot be claimed by the MHP for beneficiaries under the age of 65 if they are in certain types of hospitals, called institutions for mental disease because federal rules do not allow payment of FFP for these services.

Section 1840.215. This regulation explains which services provided on the same day as a psychiatric inpatient hospital service are considered duplicate services and for which FFP cannot be paid.

Section 1840.302. This regulation explains how the MHP will claim FFP for psychiatric nursing facility services.

Section 1840.304. This regulation explains to MHPs how to change the codes used by some providers to bill the MHP for services into codes that can be used by the MHP to claim FFP.

Section 1840.306. This regulation explains how the MHP will claim FFP for psychiatrist, psychologist, and EPSDT supplemental specialty mental health services.

Section 1840.308. This regulation explains in general how the MHP will claim FFP for mental health services, called service functions, that were not covered in other regulations on claiming FFP. There are requirements for each type of service in Section 1840.314 through Section 1840.372.

Section 1840.312. This regulation lists the services for which the MHP may not claim FFP. The services listed are either not covered by the Medi-Cal program as a whole, or are Medi-Cal services, but beneficiaries will not get these services through the MHP

Section 1840.314. This regulation explains the general way in which services must be delivered before the MHP may claim FFP for the service.

Section 1840.316. This regulation explains when and how the MHP must claim FFP for services based on minutes of time.

Section 1840.318. This regulation explains when and how the MHP must claim FFP for services based on half days or full days of time.

Section 1840.320. This regulation explains when and how the MHP must claim FFP for services based on calendar days.

Section 1840.322. This regulation explains when and how the MHP must claim FFP for services based on hours of time.

Section 1840.324. This regulation explains requirements for beneficiary contact and the location of services for mental health services.

Section 1840.325. This regulation explains requirements for beneficiary contact and the location of services for medication support services.

Section 1840.328. This regulation explains requirements for beneficiary contact and the location of services for Day Treatment Intensive services.

Section 1840.330. This regulation explains requirements for beneficiary contact and the location of services for Day Rehabilitation services.

Section 1840.332. This regulation explains requirements for beneficiary contact and the location of services for Adult Residential Treatment services.

Section 1840.334. This regulation explains requirements for beneficiary contact and the location of services for Crises Residential Treatment services.

Section 1840.336. This regulation explains requirements for beneficiary contact and the location of services for Crises Intervention services.

Section 1840.338. This regulation explains requirements for beneficiary contact and the location of services for Crises Stabilization services.

Section 1840.340. This regulation explains requirements for beneficiary contact and the location of services for Psychiatric Health Facility services.

Section 1840.342. This regulation explains requirements for beneficiary contact and the location of services for Targeted Case Management services.

Section 1840.344. This regulation explains the staffing requirements for Mental Health Services, Day Rehabilitation Services, Day Treatment Services, Crises Intervention Services, Targeted Case Management Services, and Adult Residential Services.

Section 1840.346. This regulation explains the staffing requirements for Medication Support services.

Section 1840.348. This regulation explains the staffing requirements for Crises Stabilization services.

Section 1840.350. This regulation explains the staffing requirements for Day Treatment Intensive services.

Section 1840.352. This regulation explains the staffing requirements for Day Rehabilitation services.

Section 1840.354. This regulation explains the staffing requirements for Adult Residential Treatment services.

Section 1840.356. This regulation explains the staffing requirements for Crises Residential Treatment services.

Section 1840.358. This regulation explains the staffing requirements for Psychiatric Health Facility services.

Section 1840.360. This regulation explains which services provided on the same day as a Day Treatment Intensive and/or Day Rehabilitation service are considered duplicate services and for which FFP cannot be paid.

Section 1840.362. This regulation explains which services provided on the same day as an adult residential treatment service are considered duplicate services and for which FFP cannot be paid.

Section 1840.364. This regulation explains which services provided on the same day as a crisis residential treatment service are considered duplicate services and for which FFP cannot be paid.

Section 1840.366. This regulation explains which services provided on the same day as a crisis intervention service are considered duplicate services and for which FFP cannot be paid. This regulation also explains that the most an MHP may claim is 8 hours in a 24 hour period.

Section 1840.368. This regulation explains which services provided on the same day as a crisis stabilization service are considered duplicate services and for which FFP cannot be paid. This regulation also explains that the most an MHP may claim is 20 hours in a 24 hour period.

Section 1840.370. This regulation explains which services provided on the same day as a psychiatric health facility service are considered duplicate services and for which FFP cannot be paid.

Section 1840.372. This regulation explains that the MHP may not claim FFP for more than four hours of Medication Support services in a 24 hour period.

Section 1840.374. This regulation explains which services provided on the same day as a targeted case management service are considered duplicate services and for which FFP cannot be paid.

Section 1850.205. This regulation explains the minimum requirements of the two level problem resolution process each MHP must have to decide beneficiary disputes with providers and the MHP.

Section 1850.210. This regulation explains that an MHP must provide a notice to the beneficiary when the MHP denies or changes a provider's request to be paid for services to a beneficiary and when the MHP or its providers decide that a beneficiary does not need any services from the MHP. The regulation also explains when the notice must be sent and what must be included in the notice.

Section 1850.215. This regulation explains that the MHP's obligation to provide services to a beneficiary until a fair hearing decision is reached will be the same under this program as it is in the rest of the Medi-Cal program.

Section 1850.305. This regulation explains the two level MHP provider problem resolution process and also explains when a provider may bring a dispute to the Department for resolution.

Section 1850.310. This regulation explains the procedures and timelines for providers to use if they have a problem with a claims processing related payment issue.

Section 1850.405. This regulation explains the process of MHPs will use when they disagree about which MHP is responsible for services to beneficiaries under this program.

Section 1850.505. This regulation explains procedures the Department and the State Department of Health Services will follow to resolve disputes between MHPs and Medi-Cal managed care plans. The regulation also explains how services will be provided to the beneficiary until the dispute is resolved.

FISCAL IMPACT STATEMENT:

A. Fiscal Effect on Local Government: The Department has determined that the regulations will involve additional expenditures of approximately $161,137,000 in the current State Fiscal Year. Funding for this reimbursement is provided in the 1998 Budget Act (Item 4440-103-0001). Additional unknown cost will result from regulation requirements related to: reports which must be completed (Section 1810.375); the potential imposition of civil penalties (Section 1810.385); cultural competence (Section 1810.410); training and consultation for physical health care providers (Section 1810.415); the beneficiary problem resolution process (Section 1850.205); dispute resolution between two or more mental health plans (Section 1850.405) and dispute resolution between mental health plans and physical health care plans (Section 1850.505).

B. Fiscal Effect on State Government: Additional unknown potential costs associated with: contract termination (Section 1810.325); oversight responsibilities (/Section 1810.389); beneficiary fair hearing requirements (Section 1850.205); and dispute resolutions between Mental Health Plans and physical health care plans (Section 1850.505).

C. Fiscal Effect on Federal Funding of State Programs: The Department has determined that the regulations will involve additional expenditures of approximately $177,262,341 in the current State Fiscal Year, already included in the 1998 Budget Act (Items 4440-101-0001 and 4260-103-0890).

D. Fiscal Effect on Private Persons or Businesses Directly Affected: The businesses directly affected by these regulations include managed care organizations and other entities that may have an opportunity to compete for contracts if county mental health departments elect not to accept contracts. The fiscal effect on these entities is indeterminate, since it cannot be determined whether an opportunity to contract will be available or how successful a business

would be in obtaining and operating such a contract. There will be no fiscal impact on Medi-Cal beneficiaries, the persons directly affected by these regulations, since the regulations do not change current Medi-Cal laws and regulations regarding beneficiaries' fiscal obligations under the program.

DETERMINATIONS:

IMPACT AND COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with section 17500) of Division 4 of the Government Code.

The Department has determined that the regulations would not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON HOUSING COSTS

The Department has determined that the proposed regulations will not impact housing costs.

IMPACT ON THE REGULATED COMMUNITY

The proposed regulations impose no additional costs on the regulated community.

IMPACT ON SMALL BUSINESS

The Department has determined that these regulations will affect small businesses (Medi-Cal providers) in California because they establish new requirements for participation in the Medi-Cal program for the delivery of specialty mental health services. The Medi-Cal Specialty Mental Health Services program does not impose a mandate on hospitals and mental health professionals to participate, nor does it impose a mandate on MHPs to allow any willing hospital and mental health professional to affiliate with the MHP. Hospitals and mental health professionals who affiliate with the MHP may see either an increase or a decrease in the number of Medi-Cal beneficiaries they treat and in Medi-Cal revenues, depending on the terms of the specific relationship they establish with each MHP. Hospitals that do not affiliate with the MHP may provide psychiatric inpatient hospital services to Medi-Cal beneficiaries in emergency situations and at rates established by these regulations, which will result in an indeterminate decrease in Medi-Cal revenues. Mental health professionals who do not affiliate with the MHP may continue to participate in the fee-for-service Medi-Cal program; but may provide only those specialty mental health services not covered by the MHPs; which is likely to result in a decrease in Medi-Cal beneficiaries served and Medi-Cal revenues.

PLAIN ENGLISH DETERMINATION

The Department has determined that it is not feasible to draft these regulations in plain English due to the technical nature of the regulations; however, a Plain English Policy Statement

Overview and Noncontrolling Plain English Summary of the regulations is provide above under the Informative Digest.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ABILITY TO COMPETE WITH BUSINESSES IN OTHER STATES

The adoption of the proposed regulations will not have an adverse economic impact on businesses, including the ability of Californian businesses to compete with businesses in other states.

ADDITIONAL STATEMENTS AND COMMENTS:

The Department of Mental Health has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing on December 21, 1998, if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

In accordance with Government Code Section 11346.5, subdivision (a) (12), the Department must determine that no alternative considered by it would either be more effective in carrying out the purpose for which the regulatory action is proposed or would be as effective and less burdensome on affected private persons than the proposal described in this notice.